

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Typhoon Touch Technologies, Inc.	§	
Nova Mobility Systems, Inc.	§	
	§	
v.	§	Case No. 6:07-cv-546-LED
	§	Jury Demanded
Dell, Inc.,	§	
Xplore Technologies Corporation	§	
Of America,	§	
Sand Dune Ventures, Inc.	§	
Fujitsu Computer Systems Corporation	§	
Toshiba America Information Systems, Inc.	§	
Lenovo (United States), Inc.	§	
Panasonic Corporation of North America	§	
Apple, Inc.	§	
HTC America, Inc.	§	
Palm, Inc.,	§	
Samsung Electronics America, Inc.,	§	
Nokia, Inc., and	§	
LG Electronics USA, Inc.	§	

**DEFENDANT SAND DUNE VENTURES, INC.'S MOTION FOR LEAVE TO FILE A
RESPONSE TO THE SUR-REPLY IN SUPPORT OF ITS MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED COMPLAINT FOR LACK OF SUBJECT MATTER
JURISDICTION DUE TO PLAINTIFFS' LACK OF STANDING**

COMES NOW Defendant, Sand Dune Ventures, Inc. ("Sand Dune"), by and through undersigned counsel, and pursuant to Local Rule CV-7(k), hereby requests leave to file a Response to the Sur-Reply in Support of its Motion to Dismiss Plaintiffs' First Amended Complaint for Lack of Subject Matter Jurisdiction Due to Plaintiffs' Lack of Standing and in support thereof, states as follows:

On June 23, 2008, Plaintiffs filed a Sur-Reply in Support of Plaintiffs' Opposition to Dismiss Plaintiffs' First Amended Complaint for Lack of Subject Matter Jurisdiction (D.E. # 65). Section I of Plaintiffs' Sur-Reply impermissibly: (1) contains arguments that are not limited to the arguments raised in Sand Dune's Reply; (2) references and attaches privileged settlement

communications between the parties; and (3) mischaracterizes the parties' communications. See Section I of Sur-Reply, D.E. # 65, p. 1-2. Accordingly, Sand Dune requests leave to file a response to the Sur-Reply limited to the new and improper arguments raised in Section I of Plaintiffs' Sur-Reply.

WHEREFORE, Defendant, Sand Dune Ventures, Inc., respectfully requests that this Court grant leave for Sand Dune to file a response to the Sur-Reply limited to the new and improper arguments raised in Section I of Plaintiffs' Sur-Reply and such further relief the Court deems just and proper.

Dated: July 8, 2008

Respectfully submitted,

By: /s/ Michael E. Jones

John Cyril Malloy, III
Florida Bar No. 964,220
jcmalloy@malloylaw.com
Malloy & Malloy, P.A.
Miami, Florida 33129
Tel: 305-858-8000
Fax: 305-858-0008

Michael E. Jones
State Bar No. 10929400
Allen F. Gardner
State Bar No. 24043679
POTTER MINTON
A Professional Corporation
110 N. College, Suite 500 (75702)
P. O. Box 359
Tyler, Texas 75710
(903) 597 8311
(903) 593 0846 (Facsimile)
mikejones@potterminton.com
allengardner@potterminton.com

**ATTORNEYS FOR DEFENDANT
SAND DUNE VENTURES, INC.**

CERTIFICATE OF CONFERENCE

I hereby certify that Allen F. Gardner, counsel for Sand Dune Ventures, Inc. states that he conferred with Michael J. Truncale, counsel for Plaintiffs, concerning the relief requested in this motion in a good faith effort to resolve it. Allen F. Gardner states that the parties were unable to resolve their differences as Plaintiffs position is that no further briefing is required; Sand Dune Ventures, Inc.'s position is that a response to the sur-reply is required to confront what it believes to be several new issues in the sur-reply. Allen F. Gardner states that the parties are unable to resolve their differences without Court intervention.

/s/ Michael E. Jones

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 8, 2008. Any other counsel of record will be served by First Class U.S. mail on this same date.

/s/ Michael E. Jones